

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA

ROY LASSITER, JENNIFER  
PURIFOY,

Plaintiffs,

v.

PACIFICARE LIFE & HEALTH  
INSURANCE COMPANY, UNITED  
HEALTHCARE SERVICES, INC.,  
as successor in interest to Pacificare Life  
& Health Company; ROBERT D. BELL  
and Fictitious Defendants "A" through "R"

Defendants.

CASE NO.: 2:07-CV-00583

**PLAINTIFFS' OPPOSITION TO DEFENDANTS'**  
**MOTION FOR LEAVE OF COURT TO FILE SUR-REPLY AND**  
**PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' SUR-REPLY BRIEF**

COME NOW the Plaintiffs, by and through their undersigned counsel of record, and provide the following Opposition to Defendants' Motion for Leave to File Sur-Reply and Plaintiffs' Motion to Strike Defendants' Sur-Reply Brief. As grounds therefore, the Plaintiffs state as follows:

1. That although the Federal Rules of Civil Procedure and the local rules of the Middle District of Alabama do not address the propriety of filing a sur-reply to a reply brief, *this Court's* scheduling order specifically set a briefing schedule in this matter, which does not allow for the filing of a Sur-Reply to the Plaintiffs' Reply brief. Thus, this Court's own Order precludes the filing of a Sur-Reply Brief. Accordingly, the Plaintiffs respectfully request this Court to deny the Defendants' request for leave of Court to file a sur-reply to the Plaintiffs' reply brief regarding remand. To allow otherwise will create a never-ending briefing cycle that will delay justice and result in prejudice to the Plaintiffs.

2. In the event this Court allows the Defendants to file their Sur-Reply, the Plaintiffs also request leave of Court to submit a Response to the Defendants' Sur-Reply. The Plaintiffs specifically request seven (7) days from the date of the Court's Order in which to submit their Response, or whatever amount of time this Court deems appropriate.

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs request this Court to deny the Defendants' Motion for Leave to file a Sur-Reply and further request this Court to Strike the Sur-Reply brief that the Defendants' submitted as an attachment to their motion. The Plaintiffs' further request leave of Court to file a Response to the Defendants' Sur-Reply in the event the Court is inclined to grant the Defendants' Motion.

Respectfully submitted,

/s/ J. Matthew Stephens  
Robert G. Methvin, Jr. (MET009)  
J. Matthew Stephens (STE153)  
Rodney E. Miller (MIL126)

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**CERTIFICATE OF SERVICE**

I hereby certify that on 17<sup>TH</sup> day of August, 2007, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

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/s/ J. Matthew Stephens  
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**CERTIFICATE OF SERVICE**

I hereby certify that on 17<sup>TH</sup> day of August, 2007, I placed a copy of the foregoing document in the U.S. mail to the following party:

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/s/ J. Matthew Stephens  
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